

CITY BOARD OF ZONING APPEAL #2365

DATE: April 8, 2004

DATE SCHEDULED FOR PUBLIC HEARING:

April 30, 2004

LOCATION: Generally located east of 37th and north of Stockwell Street

ADDRESS: 3727 Stockwell Street.

LEGAL DESCRIPTION: Lot 335 IT, Section 6-9-7.

APPLICANT: David and Teresa Schmidt
3727 Stockwell Street
(402)489-3671

LOT AREA: 0.32 acres, more or less.

ZONING: R-2, Residential.

EXISTING LAND USE: Single Family Residential.

SURROUNDING LAND USE AND ZONING:

| | | |
|--------|---------------|------------------|
| North: | Single family | R-2, Residential |
| South: | Single family | R-2, Residential |
| East: | Single family | R-2, Residential |
| West: | Single family | R-2, Residential |

TYPE OF APPEAL:

THIS APPEAL IS DIRECTED TO THE BOARD RELATIVE TO A VARIANCE.

Section 27.71.110, L.M.C. allows uncovered decks, which do not extend more than three feet above the adjacent ground elevation to project into a required rear yard, provided these projections be at least two feet from the adjacent side lot line. A variance of the allowed height from three (3) feet to seven (7) feet above grade is requested.

STAFF FINDINGS:

1. This is a request to allow an uncovered deck greater than three feet in height to project into the required rear yard setback.
2. The required rear yard is 30' or 20% of the lot depth, whichever is less. The required rear yard for this lot is 28.6'.
3. The house is a one story with a daylight basement. The lot slopes to the southeast. There is a several foot drop from the floor elevation of the main level

and the adjacent ground elevation in the location of the proposed deck.

4. It appears as though the south portion of the deck could be reduced in size to remain out of the rear yard setback and a variance would not be required. The deck could be expanded toward the east to make up for any lost square footage from the reduction from the south.
5. Other lots in the area are substantially larger than this lot, however this lot is larger than a typical lot in other subdivisions. Houses in the neighborhood vary from one story to multi-level and two story. On this block there is a mix of one and multi-level houses. Many of the houses in the area do not have decks, but rather have patios off the back of the house. The few houses with decks appear to meet the code requirement for maximum height and projection.
6. The applicant indicated that they would like to build a deck 7' above grade. The applicant stated that the property is unusual due to the elevation drop from the front to the back yard, the area is heavily wooded, lots are larger than most lots. The applicant noted that their house is situated sideways on the lot so that the front of the house faces east, preventing expansion to the south.
7. The Zoning Ordinance restricts deck height in the required yard to three feet above grade because a structure higher than three feet reduces the privacy. The grade increases to the south where the nearest neighbors are located, and due to this, would not be affected by a deck that is higher.
8. Board of Zoning Appeal #1724 to reduce the adjusted front yard setback for an addition, from 40.5' to 31' at 39th and Stockwell was denied on December 18, 1987.
9. The Board of Zoning Appeals is empowered to grant variances "to the extent necessary to permit the owner a reasonable use of the land in those specified instances where there are peculiar, exceptional and unusual circumstances in connection with a specific parcel of land, which circumstances are not generally found within the locality or neighborhood concerned."
10. If this appeal were not granted, the owners could erect an uncovered deck, not exceeding three feet in height, in the required rear yard setback, but not less than two feet from the side lot line.

Prepared by

Becky Horner
Planner

I:\BZA\2300\BZA2365.3727stockwell.rdh.wpd



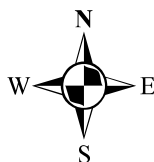
2002 aerial

Board of Zoning Appeals #2365 3727 Stockwell St.

Zoning:

| | |
|------------|--|
| R-1 to R-8 | Residential District |
| AG | Agricultural District |
| AGR | Agricultural Residential District |
| R-C | Residential Conservation District |
| O-1 | Office District |
| O-2 | Suburban Office District |
| O-3 | Office Park District |
| R-T | Residential Transition District |
| B-1 | Local Business District |
| B-2 | Planned Neighborhood Business District |
| B-3 | Commercial District |
| B-4 | Lincoln Center Business District |
| B-5 | Planned Regional Business District |
| H-1 | Interstate Commercial District |
| H-2 | Highway Business District |
| H-3 | Highway Commercial District |
| H-4 | General Commercial District |
| I-1 | Industrial District |
| I-2 | Industrial Park District |
| I-3 | Employment Center District |
| P | Public Use District |

One Square Mile
Sec. 6 T9N R7E



Zoning Jurisdiction Lines
City Limit Jurisdiction

